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December 3, 2024

MEMO ENDORSED

Hon. Katherine Polk Failla
U.S. District Court
40 Centre Street, Room 618
New York, NY 10007

RE: Morris, et al v. Sugarman, et al.
Docket No. 23-cv-09327

Dear Judge Failla:

This letter is written in response to the correspondence of plaintiffs' counsel. The letter fails to address the jurisdictional issue that continues to loom over this case. The correspondence fails to mention that issue, but the most recent court appearance took place to address that issue. The Court ordered limited discovery to address whether plaintiffs' pending complaint meets the jurisdictional threshold of the Class Action Fairness Act (CAFA).

The letter from plaintiffs' counsel describes the deposition of non-party Steven Claire. Unfortunately, it omits that part of the testimony in which Mr. Claire estimated that the amount of \$600,000.00 was collected from various entities sued by defendant Sugarman in Civil Court of the City of New York. This figure roughly matches the estimate of defendant Sugarman and fails woefully short of the \$5,000,000.00 CAFA requirement for proceeding with State-based class action litigation in Federal Court. The class action cannot continue in this Court in the absence of subject matter jurisdiction.

Plaintiffs' counsel propose to proceed with full blown discovery as if the jurisdictional issues have disappeared. In our meet and confer, one of plaintiffs' lawyers opined that plaintiffs' class action claims do exceed the threshold amount but refused to identify the basis for his rather implausible belief.

Defendant will reluctantly appear for a deposition on class action issues, so that we may then be in a position to proceed with our anticipated motion to dismiss the class action claims.

Hon. Katherine Polk Failla
Re: Morris, et al v. Sugarman, et al
23-cv-09327

- 2 -

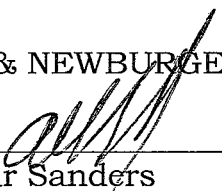
December 4, 2024

Finally, defendant consents to extend discovery deadlines by 90 days but not for the reasons indicated in plaintiffs' correspondence. Defendant does not agree to engage in merits discovery while the threshold jurisdictional issues remain to be decided.

Thank you for your consideration.

Sincerely,

BARRON & NEWBURGER, P.C.


By: Arthur Sanders

The Court has reviewed Plaintiffs' letter motion (Dkt. #65) and Defendant's letter in response (Dkt. #66), and it GRANTS Plaintiffs' application in part.

The Court hereby ADJOURNS the fact discovery deadline to **March 17, 2025**. It does not contemplate granting further extensions.

Furthermore, the Court hereby ORDERS Mr. Sugarman to appear for a deposition regarding class jurisdictional issues. If it is determined ultimately that the Court has jurisdiction, then any additional depositions of Mr. Sugarman regarding the merits of the action will be at his own expense.

The Clerk of Court is directed to terminate the pending motion at docket entry 65.

Dated: December 3, 2024
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE